

# The Financial Planning Association's Advocacy Strategic Priorities 2020

The following are the strategic priorities for FPA's advocacy efforts and are subject to revisions throughout the year at the direction of the FPA Board of Directors.

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To elevate the profession, the Financial Planning Association® (FPA®), in partnership with its chapters, members and coalition partners, has positioned itself as an advocacy force at all levels. The work the association is doing to forge relationships with policymakers ensures voices are heard and positions are known by those who bear the power to influence the trajectory of the profession. FPA has the backs of its members and will work tirelessly to be sure the voice of the financial planning community is resonating on The Hill, in state capitols, and by regulatory and certifying bodies.

## FPA's Advocacy Policy and Vision:

- FPA advocates for elevating the financial planning profession.
- To elevate the financial planning profession, FPA advocates for the concept of one profession/one designation.
- FPA advocates that the one designation be the CFP® marks.
- FPA advocates for distinguishing financial planning from other types of financial advice.
- FPA advocates for our core member, the CFP® professional who practices financial planning.

Therefore, FPA's advocacy policies support the following vision: *That financial planning is delivered by a CFP® professional under a fiduciary standard of care, which supports establishing financial planning as an honorable profession—recognized in law and by the public—based on the CFP® marks and practiced by professionals who are required to adhere to the standards that the CFP® marks represent.*

## Protecting Your Business

- **The Tax Cuts and Jobs Act (TCJA) – Federal Tax Coalition:** The Tax Cuts and Jobs Act (TCJA) created a 20% deduction on “qualified business income” for owners/shareholders of pass-through businesses, such as S corporations, partnerships, and sole proprietorships. Owners and shareholders of certain types of businesses—the “specified service trades or businesses” are limited in their ability to apply the 20% deduction if their overall taxable income exceeds certain thresholds. Financial planners fall within this definition. The Coalition [urged Congress](#) to clarify via legislation that financial service professionals, including financial planners, shall not be considered a “specified service trades or business” so that financial planners would be eligible for the 20% deduction without the income threshold limits. Since 2018, FPA has been an advocate for including financial planners in the TCJA and in November 2019 we joined a Coalition that consists of FPA, Cetera Financial Group, Commonwealth Financial Network, Financial Services Institute, Investment Adviser Association, LPL Financial, National Association of Personal Financial Advisors, and Raymond James to make this happen.

- **Department of Labor Rule:** In August 2020, the Financial Planning Coalition submitted a [comment letter](#) in opposition to the Department of Labor's Retirement Investment Advice Rule Package. The Coalition believes the proposed rule will allow for conflicted advice by non-fiduciary advisers related to retirement assets, in contravention of Congress' express intent and demonstrated through its enactment of ERISA in 1974.
- **Securities and Exchange Commission (SEC) Investment Adviser Advertising and Solicitation Rule:** While FPA shares the SEC's belief that the Investment Adviser Advertisements and Compensation for Solicitations rules should be modernized to provide increased transparency, the SEC's proposal—in response to technological advances—will have widespread and costly implications on registered investment advisers. The proposal expands the scope of both rules by including additional forms of communication and different types of compensation all of which fall outside the current rules and will require a significant change to compliance procedures for advisers and solicitors. FPA submitted a [comment letter](#) on February 10, 2020.
- **Taxation of Financial Planner Services:** FPA opposes efforts to tax financial planner services.
  - Over the past several years, multiple states have evaluated taxation of financial planning services as a means to increase state revenues as states face budget shortfalls.
  - FPA opposes the taxation of financial planning services because it would increase the costs for financial planning services. These increased costs could be passed on to clients or impact the viability of financial planner practices.
  - This policy may reduce the availability and access of financial planning services.
  - It would place an administrative burden on our members who own small businesses.
- **Protecting the Right to Organize Act of 2019:** FPA opposes [HR2472](#), Protecting the Right to Organize Act of 2019. This legislation would institute stricter requirements for classifying a worker as a contractor instead of an employee, which could have implications on gig economy workers. It would also provide greater penalties for employers that violate the Act by creating a private right of action. This legislation could inhibit access to financial planners and inhibit business practices for financial planners.
- **Financial Transaction Tax:** FPA joined the Financial Transaction Tax Coalition to oppose the financial transaction tax. A financial transaction tax is a levy on transactions of stocks, bonds, and derivatives. This is essentially a tax that would be passed onto investors.
  - FPA signed onto letters of opposition in regard to [S.2902 / A.4402](#), which would impose a tax on high-quantity processors of financial transactions. This legislation represents a sales tax on investors.

## Protecting Your Profession

- **SEC Accredited Investor Rule:** The Financial Planning Coalition advocated for including the CFP® designation in the accredited investor definition. The Coalition submitted a [comment letter](#) on March 16, 2020.
- **SEC Regulation Best Interest Lawsuits:** FPA filed an [amicus brief](#) focused on the issue that the SEC's Regulation Best Interest allows brokers to act as financial planners without complying with the registration requirements of the Investment Advisers Act of 1940 (IA Act). In the end, Regulation Best Interest does not support FPA's longstanding position of creating a harmonized and clear profession-wide fiduciary standard of care for the benefit of the public. Click [here](#) to view webinars on the new SEC rules.
- **Fiduciary Regulation/Legislation:** FPA supports regulation/legislation which would require broker dealers, registered representatives, investment advisers, and investment adviser representatives to be held to a fiduciary standard of conduct when providing personalized investment advice.

### Massachusetts Fiduciary Regulation:

- FPA supported the Division of Securities' fiduciary proposal as CFP® professionals complying with the revised Code and Standards would also be in compliance with the Division's proposal.
- FPA submitted a [comment letter](#) on January 7, 2020.

- **Regulation of Financial Planners:** FPA supports the adoption of appropriate uniform regulation of financial planners that includes a mandatory fiduciary standard of care for all professionals providing personal financial planning advice. FPA supports regulations that require financial planners to meet established requirements to practice, including examination, education, experience and ethics as modeled after the CFP® certification.
  - Financial Planning is a collaborative process that helps maximize a client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial conditions.
  - Use of the term Financial Planner
- In support of the Financial Planning Association's advocacy effort, we define the term "financial planner" as those who hold the CFP® certification or, at a minimum, those who meet the following professional standards:
  - (i) abide by a set of high ethical standards;
  - (ii) adhere to a fiduciary standard of conduct;
  - (iii) attain a minimum education requirement;
  - (iv) attain a minimum experience requirement;
  - (v) adhere to a continuing education requirement; and
  - (vi) hold a financial planning certification from a body that enforces the certification and has been accredited by either the American National Standards Institute or the National Commission for Certifying Agencies.
- **State Securities Regulation on Non-Traditional Fee Models for Financial Planning Services:** FPA is working within the Financial Planning Coalition (FPA, CFP Board and NAPFA) on this issue.
- **NASAA [model rule](#) on Investment Adviser continuing education:**
  - NASAA is requesting “public comment on a proposed investment adviser representative continuing education (“IAR CE”) program, including a proposed model rule to implement the proposed IAR CE program. The overall goal of the program is to ensure that investment adviser representatives receive continuing education on the securities business relevant to their duties and obligations.” The Financial Planning Coalition submitted a [comment letter](#) on April 13, 2020.
- **NASAA Policies and Procedures for State Registered Investment Advisers:** The Financial Planning Coalition submitted a [comment letter](#) on August 13, 2020 regarding NASAA's proposed model rule on Policies and Procedures for State Registered Investment Advisers. The Coalition agrees with NASAA that requiring state-registered investment advisers to establish, maintain, and enforce comprehensive written policies and procedures should facilitate compliance with state securities laws and thus serve to protect the investing public. The Coalition believe, however, that the model rule should minimize and avoid creating undue regulatory burdens on state-registered advisers. NASAA mentions financial planning in its "compliance grid." The Coalition asked NASAA to define financial planning in accordance with the CFP Board's Code and Standards.

## Protecting Your [Certification](#)

- **Professional Certification Coalition:** FPA joined the [Professional Certification Coalition](#) in 2018. This Coalition addresses efforts by legislatures that would prohibit the use of private organizations certifications. Several states, since 2018, have attempted to prohibit individuals from using their private certifications, including the CFP®. FPA joined this Coalition to combat that effort so that our members can retain the right to use the CFP® in any state. The Coalition supports [HR5339](#) which would expand 529 education savings accounts to cover professional certification and credentialing programs.

- **CFP Board Code of Ethics and Standards of Conduct:** The FPA Board of Directors sent a [letter](#) to the CFP Board regarding the [Report of the Independent Task Force on Enforcement to CFP Board](#) encouraging the full implementation of the Task Force’s recommendations to protect the integrity of the CFP® marks on behalf of our members and all CFP® professionals. FPA will continue to monitor CFP Board’s progress and additional changes regarding the enforcement of the Code and Standards. [Click here](#) to view a webinar designed to educate CFP® professionals on CFP Board’s new Code of Ethics and Standards of Conduct effective October 1, 2019.
- **CFP Board’s Revised Proposed Procedural Rules:** The FPA Board of Directors submitted a [comment letter](#) on April 24, 2020. In the letter, FPA outlines five concerns, including standard of proof, witnesses, procedural rules, peer-review process, and qualification and training for hearing panel participants.

## Protecting Your Clients

- **Financial Planning Fees Tax-Deductibility:** FPA supports that financial planning fees be tax-deductible for clients on the state and federal levels which could increase access to—and drive consumers to seek—financial planning services.
  - FPA joined with CFP Board, NAPFA, IAA, and FSI [to ask Congress](#) to restore and expand the pre-2017 (pre-Tax Cut and Jobs Act) tax deduction for investment advisory fees and financial planner fees. Congress should restore and expand the deduction without the 2% Adjusted Gross Income (AGI) threshold that was part of the pre-2017 law.
- **Financial Exploitation of Vulnerable Adults:** FPA supports legislation that allows our members discretion with “may” reporting language to the state securities regulator and state adult protective services agency when a qualified individual such as a securities broker or investment adviser has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred. The “may” language allows our members to exercise discretion when reporting suspected financial exploitation but does not require them to report it, while providing protection against administrative or private legal action should a member report.

Massachusetts:

- FPA [testified](#) in support of HB4281 on January 13, 2020, which is before the Joint Committee on Children, Families and Persons with Disabilities. FPA was able to work with Massachusetts legislators while the legislation was being drafted to include the “may” reporting language.
- **Financial Literacy:** FPA recognizes that financial literacy is a vital component of helping Americans live healthy financial lives, and that financial literacy education in the United States is a particularly important goal. FPA encourages schools to teach the basic components of personal financial management to help with vital financial functions such as understanding credit, savings, loans, home and rent responsibilities, and how to manage debt responsibly. Doing so will help with the overall goal of preparing students for independence and financial wellness. FPA understands there are many avenues to achieving financial literacy and stands ready to assist in support of that task.